



## Development Services Department

# ADA Compliance FAQ

## Short Term Rental

August 2022

This Frequently Asked Question (FAQ) sheet provides responses to the more common questions Encinitas residents pose to staff related to ADA compliance with short term rental properties.

Following each response is the applicable code section should you want to learn more about the ADA compliance requirements.

### WHEN IS THE ACCESSIBILITY REQUIREMENTS TRIGGERED?

#### For Hosted Rentals:

When there is a short-term agreement in place and four or five guest rooms are being rented out at the same time.

#### For Non-Hosted Rentals:

For the purposes of short-term rentals, this policy regarding accessibility does not apply to this category of rental property.

### WHAT IS A LODGING HOUSE?

The California Building Code (CBC), Section 202, defines such use as any building or portion thereof containing not more than five guestrooms where rent is paid in money, goods, labor or otherwise, and that is occupied by the proprietor as the residence of such proprietor.

### WHAT QUALIFIES AS A GUESTROOM?

The CBC, Sec. 202 defines a guestroom as a room used or intended to be used by one or more guests for living or sleeping.

### WHAT IF THE HOUSE HAS SIX BEDROOMS, BUT ONLY TWO ARE USED BY THE OWNER AND THE OTHER FOUR GUESTROOMS ARE RENTED OUT?

Such facility would still fall under the definition of the lodging house, since four or more guestrooms are being rented out.

### WHAT ARE THE ACCESSIBILITY REQUIREMENTS AND WHY DOES IT APPLY TO MY GUEST ROOMS?

CBC, Chapter 11A requires that all lodging houses, used as a residence, with more than three and not exceeding five guestrooms for rent shall comply with accessibility requirements. (*Section 1102A.1.3*).

### WHAT IF MY HOME IS ONLY OPEN TO GUESTS WITHOUT DISABILITIES?

Operating a short-term vacation is considered commercial/business use. Businesses may not discriminate against individuals with disabilities.

### WHAT TYPES OF HOUSES ARE TYPICALLY IMPACTED?

The definition applies to single-family dwellings and duplexes that are used as a residence by the proprietor and has more than three bedrooms for rent and no more than five.

### WHAT IF THE OWNER DOES NOT LIVE ON THE PREMISES AND/OR MORE THAN 5 ROOMS ARE BEING RENTED OUT?

This use may fall under the CBC definition of a dormitory. If so, those are also covered by *Section 1102A.1.7*. Consult the Building staff for additional information.

### WHAT DOES ACCESSIBILITY MEAN FOR MY HOUSE?



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By signing the accessibility form, the applicant attests that the facility being operated is accessible to the disabled. This includes accessible parking, entrance, sanitary/cooking facilities, path of travel, and other accommodations. CBC, pursuant to Chapter 11A.

### **DO I NEED TO HIRE A LICENSED ARCHITECT, ENGINEER, OR A CONTRACTOR TO SURVEY THE SITE AND THE FACILITIES OR ASCERTAIN COMPLIANCE?**

The applicant/owner may sign the form. Signature by the registered design professional is optional.

### **WHAT IF ALL MY BEDROOMS ARE ON THE 2<sup>ND</sup> FLOOR WITH NO ELEVATOR?**

The 2<sup>nd</sup> floor in a non-elevated building is not considered accessible. Sec. 1104A.1. Accessible 2<sup>nd</sup> floor shall be via an elevator, or a ramp.

### **CAN I BE GRANDFATHERED IN IF I HAVE AN OLD HOUSE?**

There are no exemptions if four or more bedrooms are being rented out on short term basis. Short term is defined as less than thirty-days.

### **WHAT IF MY HOUSE IS TWO STORIES, AND I HAVE ACCESSIBLE ACCOMMODATIONS ON THE FIRST LEVEL, BUT MY 2<sup>ND</sup> FLOOR IS IN A NON-ELEVATED BUILDING?**

If comparable services can be provided on the accessible floor, then the second level may remain as is. (Sec. 1104A).

### **WHO IS RESPONSIBLE TO ENSURE COMPLIANCE WITH ACCESSIBILITY PROVISIONS?**

The responsibility lies with the home/small business owner to obtain the necessary permits before the start of operations.

### **WHAT IF MY HOME/BUSINESS OR CONDITIONS ARE NOT COVERED IN ANY OF THE FAQ SCENARIOS?**

Please reach out to the building division staff and/or the building official to discuss any unique circumstances at [building@encinitasca.gov](mailto:building@encinitasca.gov) or 760-633-2730.